

AMENDED IN SENATE JULY 12, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN ASSEMBLY MARCH 28, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1172

Introduced by Assembly Members Sharon Runner and Spitzer

February 23, 2007

An act to amend ~~Sections 3058.6, 3058.65, 3058.8, and 3058.9~~ *Section 3058.8* of the Penal Code, and to amend Sections 6608 and 6609.1 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as amended, Sharon Runner. Inmate release.

Existing law requires, prior to release from the custody of the Department of Corrections and Rehabilitation of a person who has been convicted of certain crimes of a sexual nature, the director to refer that person to the State Department of Mental Health for evaluation if the director determines that person may be a sexually violent predator.

Under existing law, if the State Department of Mental Health determines that the person is a sexually violent predator, the department is required to forward a request for the filing of a petition to the counsel designated by the county in which the person was convicted. The law authorizes civil commitment of the person to the State Department of Mental Health as a sexually violent predator for treatment in a secure facility, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

Existing law relating to the release of inmates who have been convicted of certain *violent* crimes requires ~~notices~~ *notice of the*

scheduled release to be given to affected local agencies within 45 days prescribed persons.

This bill would ~~increase certain of these notice requirements to 60 days and others to 90 days~~ *include within this notice requirement persons scheduled for release from the State Department of Mental Health, including, but not limited to, conditional release.*

Existing law relating to conditional release hearings for sexually violent predators requires the court to give a 15-day notice of the hearing to the committed person's attorney and to the State Department of Mental Health, and requires that, if approved by the court, the person be placed in the community within 21 days after receipt of the court's findings.

This bill would increase those notice requirements to ~~60~~ 30 days.

Existing law, with certain exceptions, requires the department to provide a 15-day notice to local officials prior to recommending to the court that a sexually violent predator be conditionally released for community treatment.

This bill would increase that notice to ~~45~~ 30 days.

This bill would require that copies of related documents be provided to the court and to the State Department of Mental Health.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 3058.6 of the Penal Code is amended to~~
2 ~~read:~~
3 ~~3058.6. (a) Whenever any person confined to state prison is~~
4 ~~serving a term for the conviction of a violent felony listed in~~
5 ~~subdivision (c) of Section 667.5, the Board of Parole Hearings,~~
6 ~~with respect to inmates sentenced pursuant to subdivision (b) of~~
7 ~~Section 1168, or the Department of Corrections and Rehabilitation,~~
8 ~~with respect to inmates sentenced pursuant to Section 1170, shall~~
9 ~~notify the sheriff or chief of police, or both, and the district~~
10 ~~attorney, who has jurisdiction over the community in which the~~
11 ~~person was convicted and, in addition, the sheriff or chief of police,~~
12 ~~or both, and the district attorney, having jurisdiction over the~~
13 ~~community in which the person is scheduled to be released on~~
14 ~~parole or rereleased following a period of confinement pursuant~~
15 ~~to a parole revocation without a new commitment.~~

1 ~~(b) (1) The notification shall be made by mail at least 60 days~~
2 ~~prior to the scheduled release date, except as provided in paragraph~~
3 ~~(3). In all cases, the notification shall include the name of the~~
4 ~~person who is scheduled to be released, whether or not the person~~
5 ~~is required to register with local law enforcement, and the~~
6 ~~community in which the person will reside. The notification shall~~
7 ~~specify the office within the Department of Corrections and~~
8 ~~Rehabilitation with the authority to make final determination and~~
9 ~~adjustments regarding parole location decisions.~~

10 ~~(2) Notwithstanding any other provision of law, the Department~~
11 ~~of Corrections and Rehabilitation shall not restore credits nor take~~
12 ~~any administrative action resulting in an inmate being placed in a~~
13 ~~greater credit earning category that would result in notification~~
14 ~~being provided less than 60 days prior to an inmate's scheduled~~
15 ~~release date.~~

16 ~~(3) When notification cannot be provided within the 60 days~~
17 ~~due to the unanticipated release date change of an inmate as a result~~
18 ~~of an order from the court, an action by the Board of Parole~~
19 ~~Hearings, the granting of an administrative appeal, or a finding of~~
20 ~~not guilty or dismissal of a disciplinary action, that affects the~~
21 ~~sentence of the inmate, or due to a modification of the department's~~
22 ~~decision regarding the community into which the person is~~
23 ~~scheduled to be released pursuant to paragraph (4), the department~~
24 ~~shall provide notification as soon as practicable, but in no case~~
25 ~~less than 24 hours after the final decision is made regarding where~~
26 ~~the parolee will be released.~~

27 ~~(4) Those agencies receiving the notice referred to in this~~
28 ~~subdivision may provide written comment to the board or~~
29 ~~department regarding the impending release. Agencies that choose~~
30 ~~to provide written comments shall respond within 30 days prior~~
31 ~~to the inmate's scheduled release, unless an agency received less~~
32 ~~than 60 days' notice of the impending release, in which case the~~
33 ~~agency shall respond as soon as practicable prior to the scheduled~~
34 ~~release. Those comments shall be considered by the board or~~
35 ~~department which may, based on those comments, modify its~~
36 ~~decision regarding the community in which the person is scheduled~~
37 ~~to be released. The Department of Corrections and Rehabilitation~~
38 ~~shall respond in writing not less than 15 days prior to the scheduled~~
39 ~~release with a final determination as to whether to adjust the parole~~
40 ~~location and documenting the basis for its decision, unless the~~

1 department received comments less than 30 days prior to the
2 impending release, in which case the department shall respond as
3 soon as practicable prior to the scheduled release. The comments
4 shall become a part of the inmate's file.

5 (e) If the court orders the immediate release of an inmate, the
6 department shall notify the sheriff or chief of police, or both, and
7 the district attorney, having jurisdiction over the community in
8 which the person was convicted and, in addition, the sheriff or
9 chief of police, or both, and the district attorney, having jurisdiction
10 over the community in which the person is scheduled to be released
11 on parole at the time of release.

12 (d) The notification required by this section shall be made
13 whether or not a request has been made under Section 3058.5.

14 In no case shall notice required by this section to the appropriate
15 agency be later than the day of release on parole. If, after the 60-day
16 notice is given to law enforcement and to the district attorney
17 relating to an out-of-county placement, there is a change of county
18 placement, notice to the ultimate county of placement shall be
19 made upon the determination of the county of placement.

20 SEC. 2. Section 3058.65 of the Penal Code is amended to read:

21 3058.65. (a) (1) Whenever any person confined in the state
22 prison is serving a term for the conviction of child abuse pursuant
23 to Section 273a, 273ab, or 273d, any sex offense specified as being
24 perpetrated against a minor, or an act of domestic violence, or as
25 ordered by a court, the Board of Parole Hearings, with respect to
26 inmates sentenced pursuant to subdivision (b) of Section 1168, or
27 the Department of Corrections and Rehabilitation, with respect to
28 inmates sentenced pursuant to Section 1170, shall notify the
29 following parties that the person is scheduled to be released on
30 parole, or rereleased following a period of confinement pursuant
31 to a parole revocation without a new commitment, as specified in
32 subdivision (b):

33 (A) The immediate family of the parolee who requests
34 notification and provides the department with a current address.

35 (B) A county child welfare services agency that requests
36 notification pursuant to Section 16507 of the Welfare and
37 Institutions Code.

38 (2) For the purposes of this paragraph, "immediate family of
39 the parolee" means the parents, siblings, and spouse of the parolee.

1 ~~(b) (1) The notification shall be made by mail at least 90 days~~
2 ~~prior to the scheduled release date, except as provided in paragraph~~
3 ~~(2). In all cases, the notification shall include the name of the~~
4 ~~person who is scheduled to be released, the terms of that person's~~
5 ~~parole, whether or not that person is required to register with local~~
6 ~~law enforcement, and the community in which that person will~~
7 ~~reside. The notification shall specify the office within the~~
8 ~~Department of Corrections and Rehabilitation that has the authority~~
9 ~~to make the final determination and adjustments regarding parole~~
10 ~~location decisions.~~

11 ~~(2) When notification cannot be provided within the 90 days~~
12 ~~due to the unanticipated release date change of an inmate as a result~~
13 ~~of an order from the court, an action by the Board of Parole~~
14 ~~Hearings, the granting of an administrative appeal, or a finding of~~
15 ~~not guilty or dismissal of a disciplinary action, that affects the~~
16 ~~sentence of the inmate, or due to a modification of the department's~~
17 ~~decision regarding the community into which the person is~~
18 ~~scheduled to be released pursuant to paragraph (3), the department~~
19 ~~shall provide notification to the parties and agencies specified in~~
20 ~~subdivision (a) as soon as practicable, but in no case less than 24~~
21 ~~hours after the final decision is made regarding the location where~~
22 ~~the parolee will be released.~~

23 ~~(3) Those agencies receiving the notice referred to in this~~
24 ~~subdivision may provide written comment to the board or~~
25 ~~department regarding the impending release. Agencies that choose~~
26 ~~to provide written comments shall respond within 30 days prior~~
27 ~~to the inmate's scheduled release, unless an agency received less~~
28 ~~than 90 days' notice of the impending release, in which case the~~
29 ~~agency shall respond as soon as practicable prior to the scheduled~~
30 ~~release. Those comments shall be considered by the board or~~
31 ~~department which may, based on those comments, modify its~~
32 ~~decision regarding the community in which the person is scheduled~~
33 ~~to be released. The board or department shall respond in writing~~
34 ~~not less than 15 days prior to the scheduled release with a final~~
35 ~~determination as to whether to adjust the parole location and~~
36 ~~documenting the basis for its decision, unless the department~~
37 ~~received comments less than 30 days prior to the impending~~
38 ~~release, in which case the department shall respond as soon as~~
39 ~~practicable prior to the scheduled release. The comments shall~~
40 ~~become a part of the inmate's file.~~

1 ~~(e) In no case shall the notice required by this section be later~~
2 ~~than the day the person is released on parole.~~

3 ~~SEC. 3.~~

4 *SECTION 1.* Section 3058.8 of the Penal Code is amended to
5 read:

6 3058.8. (a) At the time a notification is sent pursuant to
7 subdivision (a) of Section 3058.6, the Board of Parole Hearings
8 or the Department of Corrections and Rehabilitation, or the
9 designated agency responsible for notification, as the case may
10 be, shall also send a notice to persons described in Section 679.03
11 who have requested a notice informing those persons of the fact
12 that the person who committed the violent offense is scheduled to
13 be released from the Department of Corrections and Rehabilitation
14 or from the State Department of Mental Health, including, but not
15 limited to, conditional release, and specifying the proposed date
16 of release. Notice of the community in which the person is
17 scheduled to reside shall also be given if it is (1) in the county of
18 residence of a witness, victim, or family member of a victim who
19 has requested notification, or (2) within 100 miles of the actual
20 residence of a witness, victim, or family member of a victim who
21 has requested notification. If, after providing the witness, victim,
22 or next of kin with the notice, there is any change in the release
23 date or the community in which the person is to reside, the board
24 or department shall provide the witness, victim, or next of kin with
25 the revised information.

26 (b) In order to be entitled to receive the notice set forth in this
27 section, the requesting party shall keep the department or board
28 informed of his or her current mailing address.

29 (c) The board or department, when sending out notices regarding
30 an offender's release on parole, shall use the information provided
31 by the requesting party in the form completed pursuant to
32 subdivision (b) of Section 679.03, unless that information is no
33 longer current. If the information is no longer current, the
34 department shall make a reasonable attempt to contact the person
35 and to notify him or her of the impending release.

36 ~~SEC. 4. Section 3058.9 of the Penal Code is amended to read:~~

37 ~~3058.9. (a) Whenever any person confined to state prison is~~
38 ~~serving a term for the conviction of child abuse pursuant to Section~~
39 ~~273a, 273ab, or 273d, or any sex offense identified in statute as~~
40 ~~being perpetrated against a minor victim, or as ordered by any~~

1 court, the Board of Parole Hearings, with respect to inmates
2 sentenced pursuant to subdivision (b) of Section 1168, or the
3 Department of Corrections and Rehabilitation, with respect to
4 inmates sentenced pursuant to Section 1170, shall notify the sheriff
5 or chief of police, or both, and the district attorney, having
6 jurisdiction over the community in which the person was convicted
7 and, in addition, the sheriff or chief of police, or both, and the
8 district attorney having jurisdiction over the community in which
9 the person is scheduled to be released on parole or rereleased
10 following a period of confinement pursuant to a parole revocation
11 without a new commitment.

12 (b) (1) The notification shall be made by mail at least 60 days
13 prior to the scheduled release date, except as provided in paragraph
14 (3). In all cases, the notification shall include the name of the
15 person who is scheduled to be released, whether or not the person
16 is required to register with local law enforcement, and the
17 community in which the person will reside. The notification shall
18 specify the office within the Department of Corrections and
19 Rehabilitation with the authority to make final determination and
20 adjustments regarding parole location decisions.

21 (2) Notwithstanding any other provision of law, the Department
22 of Corrections and Rehabilitation shall not restore credits nor take
23 any administrative action resulting in an inmate being placed in a
24 greater credit earning category that would result in notification
25 being provided less than 60 days prior to an inmate's scheduled
26 release date.

27 (3) When notification cannot be provided within the 60 days
28 due to the unanticipated release date change of an inmate as a result
29 of an order from the court, an action by the Board of Parole
30 Hearings, the granting of an administrative appeal, or a finding of
31 not guilty or dismissal of a disciplinary action, that affects the
32 sentence of the inmate, or due to a modification of the department's
33 decision regarding the community into which the person is
34 scheduled to be released pursuant to paragraph (4), the department
35 shall provide notification as soon as practicable, but in no case
36 less than 24 hours after the final decision is made regarding where
37 the parolee will be released.

38 (4) Those agencies receiving the notice referred to in this
39 subdivision may provide written comment to the board or
40 department regarding the impending release. Agencies that choose

1 to provide written comments shall respond within 30 days prior
2 to the inmate's scheduled release, unless an agency received less
3 than 60 days' notice of the impending release, in which case the
4 agency shall respond as soon as practicable prior to the scheduled
5 release. Those comments shall be considered by the board or
6 department, which may, based on those comments, modify its
7 decision regarding the community in which the person is scheduled
8 to be released. The Department of Corrections and Rehabilitation
9 shall respond in writing not less than 15 days prior to the scheduled
10 release with a final determination as to whether to adjust the parole
11 location and documenting the basis for its decision, unless the
12 department received comments less than 30 days prior to the
13 impending release, in which case the department shall respond as
14 soon as practicable prior to the scheduled release. The comments
15 shall become a part of the inmate's file.

16 (e) If the court orders the immediate release of an inmate, the
17 department shall notify the sheriff or chief of police, or both, and
18 the district attorney, having jurisdiction over the community in
19 which the person was convicted and, in addition, the sheriff or
20 chief of police, or both, and the district attorney, having jurisdiction
21 over the community in which the person is scheduled to be released
22 on parole or released following a period of confinement pursuant
23 to a parole revocation without a new commitment.

24 (d) The notification required by this section shall be made
25 whether or not a request has been made under Section 3058.5.

26 In no case shall notice required by this section to the appropriate
27 agency be later than the day of release on parole. If, after the 60-day
28 notice is given to law enforcement and to the district attorney
29 relating to an out-of-county placement, there is a change of county
30 placement, notice to the ultimate county of placement shall be
31 made upon the determination of the county of placement.

32 (e) The notice required by this section shall satisfy the notice
33 required by Section 3058.6 for any person whose offense is
34 identified in both sections.

35 SEC. 5.

36 SEC. 2. Section 6608 of the Welfare and Institutions Code is
37 amended to read:

38 6608. (a) Nothing in this article shall prohibit the person who
39 has been committed as a sexually violent predator from petitioning
40 the court for conditional release or an unconditional discharge

1 without the recommendation or concurrence of the Director of
 2 Mental Health. If a person has previously filed a petition for
 3 conditional release without the concurrence of the director and the
 4 court determined, either upon review of the petition or following
 5 a hearing, that the petition was frivolous or that the committed
 6 person's condition had not so changed that he or she would not be
 7 a danger to others in that it is not likely that he or she will engage
 8 in sexually violent criminal behavior if placed under supervision
 9 and treatment in the community, then the court shall deny the
 10 subsequent petition unless it contains facts upon which a court
 11 could find that the condition of the committed person had so
 12 changed that a hearing was warranted. Upon receipt of a first or
 13 subsequent petition from a committed person without the
 14 concurrence of the director, the court shall endeavor whenever
 15 possible to review the petition and determine if it is based upon
 16 frivolous grounds and, if so, shall deny the petition without a
 17 hearing. The person petitioning for conditional release and
 18 unconditional discharge under this subdivision shall be entitled to
 19 assistance of counsel. *The person petitioning for conditional*
 20 *release or unconditional discharge shall serve a copy of the petition*
 21 *on the State Department of Mental Health at the time the petition*
 22 *is filed with the court.*

23 (b) The court shall give notice of the hearing date to the attorney
 24 designated in subdivision (i) of Section 6601, the retained or
 25 appointed attorney for the committed person, and the Director of
 26 Mental Health at least ~~60~~ 30 court days before the hearing date.

27 (c) No hearing upon the petition shall be held until the person
 28 who is committed has been under commitment for confinement
 29 and care in a facility designated by the Director of Mental Health
 30 for not less than one year from the date of the order of commitment.

31 (d) The court shall hold a hearing to determine whether the
 32 person committed would be a danger to the health and safety of
 33 others in that it is likely that he or she will engage in sexually
 34 violent criminal behavior due to his or her diagnosed mental
 35 disorder if under supervision and treatment in the community. If
 36 the court at the hearing determines that the committed person
 37 would not be a danger to others due to his or her diagnosed mental
 38 disorder while under supervision and treatment in the community,
 39 the court shall order the committed person placed with an
 40 appropriate forensic conditional release program operated by the

1 state for one year. A substantial portion of the state-operated
2 forensic conditional release program shall include outpatient
3 supervision and treatment. The court shall retain jurisdiction of
4 the person throughout the course of the program. At the end of
5 one year, the court shall hold a hearing to determine if the person
6 should be unconditionally released from commitment on the basis
7 that, by reason of a diagnosed mental disorder, he or she is not a
8 danger to the health and safety of others in that it is not likely that
9 he or she will engage in sexually violent criminal behavior. The
10 court shall not make this determination until the person has
11 completed at least one year in the state-operated forensic
12 conditional release program. The court shall notify the Director
13 of Mental Health of the hearing date.

14 (e) Before placing a committed person in a state-operated
15 forensic conditional release program, the community program
16 director designated by the State Department of Mental Health shall
17 submit a written recommendation to the court stating which
18 forensic conditional release program is most appropriate for
19 supervising and treating the committed person. If the court does
20 not accept the community program director's recommendation,
21 the court shall specify the reason or reasons for its order on the
22 record. The procedures described in Sections 1605 to 1610,
23 inclusive, of the Penal Code shall apply to the person placed in
24 the forensic conditional release program.

25 (f) If the court determines that the person should be transferred
26 to a state-operated forensic conditional release program, the
27 community program director, or his or her designee, shall make
28 the necessary placement arrangements and, within ~~60~~ 30 days after
29 receiving notice of the court's finding, the person shall be placed
30 in the community in accordance with the treatment and supervision
31 plan unless good cause for not doing so is presented to the court.

32 (g) If the court rules against the committed person at the trial
33 for unconditional release from commitment, the court may place
34 the committed person on outpatient status in accordance with the
35 procedures described in Title 15 (commencing with Section 1600)
36 of Part 2 of the Penal Code.

37 (h) If the court denies the petition to place the person in an
38 appropriate forensic conditional release program or if the petition
39 for unconditional discharge is denied, the person may not file a

1 new application until one year has elapsed from the date of the
2 denial.

3 (i) In any hearing authorized by this section, the petitioner shall
4 have the burden of proof by a preponderance of the evidence.

5 (j) If the petition for conditional release is not made by the
6 director of the treatment facility to which the person is committed,
7 no action on the petition shall be taken by the court without first
8 obtaining the written recommendation of the director of the
9 treatment facility.

10 (k) Time spent in a conditional release program pursuant to this
11 section shall not count toward the term of commitment under this
12 article unless the person is confined in a locked facility by the
13 conditional release program, in which case the time spent in a
14 locked facility shall count toward the term of commitment.

15 ~~SEC. 6.~~

16 *SEC. 3.* Section 6609.1 of the Welfare and Institutions Code
17 is amended to read:

18 6609.1. (a) (1) When the State Department of Mental Health
19 makes a recommendation to the court for community outpatient
20 treatment for any person committed as a sexually violent predator,
21 or when a person who is committed as a sexually violent predator
22 pursuant to this article has petitioned a court pursuant to Section
23 6608 for conditional release under supervision and treatment in
24 the community pursuant to a conditional release program, or has
25 petitioned a court pursuant to Section 6608 for subsequent
26 unconditional discharge, and the department is notified, or is aware,
27 of the filing of the petition, and when a community placement
28 location is recommended or proposed, the department shall notify
29 the sheriff or chief of police, or both, the district attorney, or the
30 county's designated counsel, that have jurisdiction over the
31 following locations:

32 (A) The community in which the person may be released for
33 community outpatient treatment.

34 (B) The community in which the person maintained his or her
35 last legal residence as defined by Section 3003 of the Penal Code.

36 (C) The county that filed for the person's civil commitment
37 pursuant to this article.

38 (2) The department shall also notify the Sexually Violent
39 Predator Parole Coordinator of the Department of Corrections and
40 Rehabilitation, if the person is otherwise subject to parole pursuant

1 to Article 1 (commencing with Section 3000) of Chapter 8 of Title
2 1 of Part 3 of the Penal Code. The department shall also notify the
3 Department of Justice.

4 (3) The notice shall be given when the department or its designee
5 makes a recommendation under subdivision (e) of Section 6608
6 or proposes a placement location without making a
7 recommendation, or when any other person proposes a placement
8 location to the court and the department or its designee is made
9 aware of the proposal.

10 (4) The notice shall be given at least ~~45~~ 30 days prior to the
11 department's submission of its recommendation to the court in
12 those cases in which the department recommended community
13 outpatient treatment under Section 6607, or in which the
14 department or its designee is recommending or proposing a
15 placement location, or in the case of a petition or placement
16 proposal by someone other than the department or its designee,
17 within 48 hours after becoming aware of the petition or placement
18 proposal.

19 (5) The notice shall state that it is being made under this section
20 and include all of the following information concerning each person
21 committed as a sexually violent predator who is proposed or is
22 petitioning to receive outpatient care in a conditional release
23 program in that city or county:

24 (A) The name, proposed placement address, date of
25 commitment, county from which committed, proposed date of
26 placement in the conditional release program, fingerprints, and a
27 glossy photograph no smaller than 3 1/8 by 3 1/8 inches in size, or
28 clear copies of the fingerprints and photograph.

29 (B) The date, place, and time of the court hearing at which the
30 location of placement is to be considered and a proof of service
31 attesting to the notice's mailing in accordance with this subdivision.

32 (C) A list of agencies that are being provided this notice and
33 the addresses to which the notices are being sent.

34 (b) Those agencies receiving the notice referred to in paragraphs
35 (1) and (2) of subdivision (a) may provide written comment to the
36 department and the court regarding the impending release,
37 placement, location, and conditions of release. All community
38 agency comments shall be combined and consolidated. *The written*
39 *comment shall be filed with the court at the time that the comment*
40 *is provided to the department. The written comment shall identify*

1 *differences between the comment filed with the court and that*
2 *provided to the department, if any.* In addition, a single agency in
3 the community of the specific proposed or recommended placement
4 address may suggest appropriate, alternative locations for
5 placement within that community. *A copy of the suggested*
6 *alternative placement location shall be filed with the court at the*
7 *time that the suggested placement location is provided to the*
8 *department.* The State Department of Mental Health shall issue a
9 written statement to the commenting agencies and to the court
10 within 10 days of receiving the written comments with a
11 determination as to whether to adjust the release location or general
12 terms and conditions, and explaining the basis for its decision. In
13 lieu of responding to the individual community agencies or
14 individuals, the department's statement responding to the
15 community comment shall be in the form of a public statement.

16 (c) The agencies' comments and department's statements shall
17 be considered by the court which shall, based on those comments
18 and statements, approve, modify, or reject the department's
19 recommendation or proposal regarding the community or specific
20 address to which the person is scheduled to be released or the
21 conditions that shall apply to the release if the court finds that the
22 department's recommendation or proposal is not appropriate.

23 (d) (1) When the State Department of Mental Health makes a
24 recommendation to pursue recommitment, makes a
25 recommendation not to pursue recommitment, or seeks a judicial
26 review of commitment status pursuant to subdivision (f) of Section
27 6605, of any person committed as a sexually violent predator, it
28 shall provide written notice of that action to the sheriff or chief of
29 police, or both, and to the district attorney, that have jurisdiction
30 over the following locations:

31 (A) The community in which the person maintained his or her
32 last legal residence as defined by Section 3003 of the Penal Code.

33 (B) The community in which the person will probably be
34 released, if recommending not to pursue recommitment.

35 (C) The county that filed for the person's civil commitment
36 pursuant to this article.

37 (2) The State Department of Mental Health shall also notify the
38 Sexually Violent Predator Parole Coordinator of the Department
39 of Corrections and Rehabilitation, if the person is otherwise subject
40 to parole pursuant to Article 1 (commencing with Section 3000)

1 of Chapter 8 of Title 1 of Part 3 of the Penal Code. The State
2 Department of Mental Health shall also notify the Department of
3 Justice. The notice shall be made at least 15 days prior to the
4 department's submission of its recommendation to the court.

5 (3) Those agencies receiving the notice referred to in this
6 subdivision shall have 15 days from receipt of the notice to provide
7 written comment to the department regarding the impending
8 release. *At the time that the written comment is made to the*
9 *department, a copy of the written comment shall be filed with the*
10 *court by the agency or agencies making the comment.* Those
11 comments shall be considered by the department, which may
12 modify its decision regarding the community in which the person
13 is scheduled to be released, based on those comments.

14 (e) (1) If the court orders the release of a sexually violent
15 predator, the court shall notify the Sexually Violent Predator Parole
16 Coordinator of the Department of Corrections and Rehabilitation.
17 The Department of Corrections and Rehabilitation shall notify the
18 Department of Justice, the State Department of Mental Health, the
19 sheriff or chief of police or both, and the district attorney, that have
20 jurisdiction over the following locations:

21 (A) The community in which the person is to be released.

22 (B) The community in which the person maintained his or her
23 last legal residence as defined in Section 3003 of the Penal Code.

24 (2) The Department of Corrections and Rehabilitation shall
25 make the notifications required by this subdivision regardless of
26 whether the person released will be serving a term of parole after
27 release by the court.

28 (f) If the person is otherwise subject to parole pursuant to Article
29 1 (commencing with Section 300) of Chapter 8 of Title 1 of Part
30 3 of the Penal Code, to allow adequate time for the Department of
31 Corrections and Rehabilitation to make appropriate parole
32 arrangements upon release of the person, the person shall remain
33 in physical custody for a period not to exceed 72 hours or until
34 parole arrangements are made by the Sexually Violent Predator
35 Parole Coordinator of the Department of Corrections and
36 Rehabilitation, whichever is sooner. To facilitate timely parole
37 arrangements, notification to the Sexually Violent Predator Parole
38 Coordinator of the Department of Corrections and Rehabilitation
39 of the pending release shall be made by telephone or facsimile
40 and, to the extent possible, notice of the possible release shall be

1 made in advance of the proceeding or decision determining whether
2 to release the person.

3 (g) The notice required by this section shall be made whether
4 or not a request has been made pursuant to Section 6609.

5 (h) The time limits imposed by this section are not applicable
6 when the release date of a sexually violent predator has been
7 advanced by a judicial or administrative process or procedure that
8 could not have reasonably been anticipated by the State Department
9 of Mental Health and where, as the result of the time adjustments,
10 there is less than 30 days remaining on the commitment before the
11 inmate's release, but notice shall be given as soon as practicable.

12 (i) In the case of any subsequent community placement or
13 change of community placement of a conditionally released
14 sexually violent predator, notice required by this section shall be
15 given under the same terms and standards as apply to the initial
16 placement, except in the case of an emergency where the sexually
17 violent predator must be moved to protect the public safety or the
18 safety of the sexually violent predator. In the case of an emergency,
19 the notice shall be given as soon as practicable, and the affected
20 communities may comment on the placement as described in
21 subdivision (b).

22 (j) The provisions of this section are severable. If any provision
23 of this section or its application is held invalid, that invalidity shall
24 not affect other provisions or applications that can be given effect
25 without the invalid provision or application.